

REMARKS

In light of the Office Action's objections regarding various informalities found in the present application, selected paragraphs in the specification have been corrected in accordance with suggestions set forth in the outstanding Office Action.

Claims 1-11 are currently pending in the application. Claims 1, 6, and 11 are in independent form.

Claim 11 stands rejected under 35 U.S.C. § 112 as being indefinite for lacking a proper antecedent basis. The claim is currently amended to recite the proper antecedent basis. As such, reconsideration of the rejection is respectfully requested.

Claims 1-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,200,334 to Dunn, et al. Additionally, Claims 1-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,637,507 to Wicks. Reconsideration of the rejections is respectfully requested.

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim."

The Office Action has held that the cited Dunn and Wicks patents disclose a charge-transfer chemical sensor comprising a sol-gel material affixable to a predetermined surface, and indicating means within said sol-gel for detecting and signaling a presence of at least one chemical.

However, when read more closely, the present claims recite limitations not disclosed in the Dunn and Wicks patents. The presently pending independent claims require “a sol-gel material affixable to a predetermined surface” (emphasis added). As defined in the specification (Paragraph [0032]), in the present invention “...the sensor includes a backing that enables the sensor to be affixed to an exterior surface of a piece of clothing, a vehicle, or a person's skin.” This affixable backing, a novel feature of the present invention, is not disclosed in the Dunn patent, nor the Wicks patent. As such, it is respectfully submitted that the present application is patentable over the cited Dunn and Wicks references, and reconsideration of the rejections are respectfully requested.

Additionally, the present application relates to and claims a charge-transfer chemical sensor which detects compounds via a metal-ligand charge-transfer (CT) mechanism. Conversely, the cited Dunn and Wicks references do not disclose such a charge-transfer chemical sensor nor can the devices they disclose function as such a sensor. As such, it is respectfully submitted that this limitation and functionality also distinguishes the present application from the cited references, and, as such, reconsideration of the rejections are respectfully requested.

In light of the above distinctions and novelty present in the present invention beyond that which is described in the prior art, reconsideration of the rejections are respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependant on the independent claims. References as applied against

these dependent claims do not make up for the deficiencies of those references as discussed above, and the prior art references do not disclose the characterizing features of the independent claims as discusses above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In conclusion, it is respectfully submitted that the presently pending claims are in condition for allowance, which allowance is respectfully requested. Applicant respectfully requests to be contacted by telephone at (248)539-5050 if any remaining issues exist.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC

/Kenneth I. Kohn/

Kenneth I. Kohn, Reg. No. 30,955
Customer No.: 48924

Dated: September 30, 2009

CERTIFICATE OF ELECTRONIC FILING VIA EFS-WEB

Date of Electronic Filing: September 30, 2009

I hereby certify that this correspondence is being electronically filed with the United States Patent & Trademark Office on the above date.

/Natalie Zemgulis/

Natalie Zemgulis